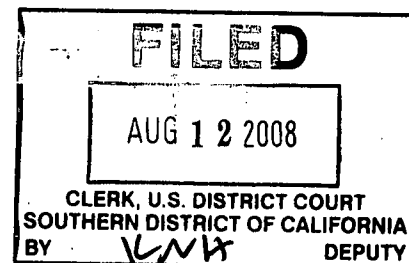


AUG - 8 2008

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MICHAEL FOX

PLAINTIFF

CASE NO. 07 CV 2388 DMS (POV)

VS.

UNITED STATES OF AMERICA et.al.

DEFENDANTS

PLAINTIFFS MOTION TO DISMISS
DEFENDANTS OPPOSITION AGAINST
PLAINTIFFS MOTION TO SET ASIDE
DEFENDANTS MOTION TO DISMISS
AND FURTHER SETTING ASIDE THE
COURT ORDER TO IT.MOTION DATE OF AUGUST 15TH 2008
AT 1:30AM IN JUDGE DANA M. SABRAWS
COURTROOM 10

PLAINTIFFS STATEMENT OF FACTS

- 1) PLAINTIFFS CASE WAS DISMISSED BY THE COURT ON JUNE 24TH 2008 ON DEFENDANTS MOTION TO DISMISS.
- 2) PLAINTIFF FILED A MOTION FOR SETTING ASIDE DEFENDANTS MOTION AND THE COURT ORDER TO IT. GRANTING THE DEFENDANTS THERE MOTION ON JULY 7TH 2008.
- 3) PLAINTIFFS MOTION TO BE HERD ON AUGUST 15TH 2008
- 4) DEFENDANTS RECIEVED THERE COPY OF PLAINTIFFS MOTION TO SET ASIDE DEFENDANTS MOTION AND THE COURT ORDER TO IT ON JULY 8 2008.
- 5) THAT DEFENDANTS FILED THERE OPPOSITION ON JULY 31 2008. TO DISMISS PLAINTIFFS MOTION SEEKING AN ORDER OF THE COURT SETTING ASIDE DEFENDANTS MOTION TO DISMISS AND THE COURT ORDER TO IT.
- 6) THE PLAINTIFF RECEIVING DEFENDANTS OPPOSITION TO PLAINTIFFS MOTION ON MONDAY AUGUST 4TH 2008. ENVELOPE MAILED IN DATED DATED JULY 31 2008
COPY OF ENVELOPE POST MARKED JULY 31 2008 ATTACHED HERETO AS EXHIBIT (1A)
- 7) THAT DEFENDANTS OPPOSITION HAS NOT BEEN FILED IN A TIMLEY MANNNER, AND HAS NOT BEEN DELIVERED TO THE PLAINTIFFE WITHIN THE 14 CALENDER DAY LOCAL CIVIL RULE.
- 8) THAT FURTHER UNDER SERVICE OF MOTIONS AND OPPOSITIONS THERE ARE CIVIL LOCAL RULES TO ALLOW A 5 DAY PERIOD FOR MAILING OUT OF THE STATE OF CALIFORNIA. AND 3 DAYS FOR IN STATE MAILING. CURRENTLY THE PLAINTIFF IS TEMPORARY RESIDING OUTSIDE OF CALIFORNIA. FURTHER PLAINTIFF FILED

CR

WITH THE COURT A TEMPORARY CHANGE OF ADDRESS ON JULY 22 2008- FURTHER US ATTORNEYS OFFICE RECEIVING THERE NOTICE OF THIS CHANGE BY CERTIFIED MAIL ON JULY 25 2008.

9) THAT DEFENDANTS HAVE FAILED TO SERVE PLAINTIFF HIS OPPOSITION IN A TIMLEY MANNER. AS TO CIVIL LOCAL RULES 7.1.e.1 AND 7.1.e.2 AND 7.1.e.6

THAT DEFENDANTS OPPOSITION IS NOT VALID AND BINDING AS TO THESE LOCAL RULES. FURTHER DEFENDANTS OPPOSITION IS NOT VALID.

10) THAT FURTHER PLAINTIFF REQUEST THAT THIS FILING BE ACCEPTED BY THE COURT AS IT WAS NOT SERVED ON DEFENDANT, WITHIN THE 14 DAY CALANDER DAY RULE. AS IT IS BEING FILED IN RESPONSE TO THE DEFENDANT NOT SERVING THE PLAINTIFF IN DUE TIME AS PER LOCAL RULES.

WHEREFORE PLAINTIFF RESPECTFULLY REQUEST THAT DEFENDANTS OPPOSTION TO PLAINTIFFS MOTION BE DENIED AND FURTHER REJECTED BY THE COURT. AS IT IS NOT DUE AND OWING, OR IS VALID.

THAT FURTHER PLAINITFF REQUEST THAT THE MOTION TO SET ASIDE DEFENDANTS MOTION AND THE COURTS ORDER TO IT BE GRANTED BY THIS HONORABLE COURT. AS IT IS DUE AND OWING.

DATE OF AUGUST 5TH 2008

PLAINTIF--MICHAEL FOX--IN PRO PER

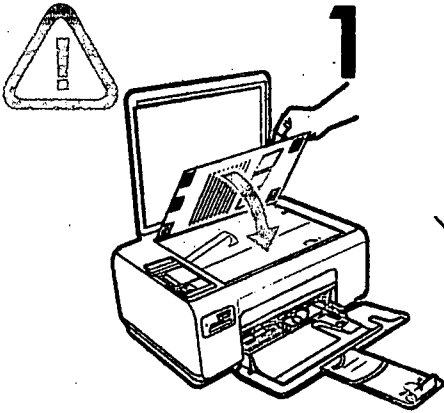
PROOF OF SERVICE

NOW COMES MICHAEL FOX THE PLAINITFF AND STATES THAT HE MAILED A COPY OF THIS MOTION TO THE US ATTORNEYS OFFICE AT 880 FRONT STREET (ROOM 6293) SAN DIEGO CALIFORNIA 92101
MAILED CERTIFIED MAIL NO. 7007 2680 0000 2741 1854

MAILED TO US DISTRICT COURT CLERK AT 880 FRONT ST. (ROOM 4293) SAN DIEGO CA. 92101
CERTIFIED MAIL NO. 7007 2560 0000 6545 8894

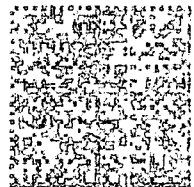
Date of August 5th 2008

Plaintiff Michael Fox In Pro Per.



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Michael Fox
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U.S. Department of Justice
United States Attorney's Office
Southern District of California
880 Front Street, Room 6293
San Diego, California 92101-8893
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Exhibit 1A